

FILED

APR 20 2005

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PLANS, INC.,

Plaintiff,

CIV. NO. S-98-266 FCD/PAN

v.

SACRAMENTO CITY UNIFIED
SCHOOL DISTRICT, TWIN BRIDGES
ELEMENTARY SCHOOL DISTRICT,
DOES 1-100,

Defendants.

THIRD AMENDED
PRETRIAL CONFERENCE ORDER¹

Pursuant to court order, a Pretrial Conference was held on February 11, 2005. Scott M. Kendall, appeared as counsel for plaintiff. Christian M. Keiner, Michelle L. Cannon and Susan R. Denious, appeared as counsel for defendants. After the hearing, the court makes the following findings and orders:

I. JURISDICTION/VENUE

Jurisdiction is predicated upon 28 U.S.C. §§ 1331 and 1343, and has previously been

¹ The court issued a "Pretrial Conference Order" on January 15, 2001, and an "Amended Pretrial Conference Order" on April 24, 2001. After the Ninth Circuit remand, on February 22, 2005, the court issued a "Pretrial Conference Order", which should have been entitled "Second Amended Pretrial Conference Order." Thus, this order is the Third Amended Pretrial Conference Order.

found to be proper by order of this court, as has venue. Those orders are confirmed.

II. NON-JURY

Trial shall be by the court.

III. UNDISPUTED FACTS

- a. Waldorf method used by the schools is that the same teacher progresses through each grade with his or her class, through the eighth grade.
- b. Austrian-born Rudolf Steiner founded Waldorf education in 1919 when he created a school in Germany for the children of the Waldorf-Astoria cigarette factory workers.
- c. In September 1995, Sacramento City Unified School District ("SCUSD") began operating Oak Ridge School as a Waldorf methods magnet school.
- d. Rudolf Steiner College, a school for teacher training in Waldorf education, submitted a proposal for the training of the Oak Ridge teachers in the use of Waldorf methods in a public school setting. Betty Staley, the Dean of Faculty, created the teacher training program for the Oak Ridge teachers in 1995. The teachers began their teacher training through Rudolf Steiner College in spring of 1996.
- e. Just prior to the 1997-1998 school year, the Waldorf Methods Magnet School moved from Oak Ridge School and became the John Morse Waldorf Methods Magnet School ("John Morse").
- f. In August 1994, Twin Ridges Elementary School District ("Twin Ridges") agreed to sponsor a Waldorf methods charter school.
- g. The Twin Ridges Alternative Charter School opened in September 1994.
- h. The following year, the Twin Ridges Alternative Charter School moved and became the Yuba River Charter School.
- i. Both schools currently operate as public schools using Waldorf methods in the classroom.

IV. DISPUTED FACTS

This case involves issues of law, and/or mixed questions of law and fact, in constitutional adjudication as outlined in the court's last pretrial order.

1. Whether anthroposophy is a religion.
 - A. Whether anthroposophy is a system of belief and worship of a superhuman controlling power involving a code of ethics and philosophy requiring obedience thereto.
 - B. Whether anthroposophy addresses fundamental and ultimate questions having to do with "deep and imponderable matters."
 - C. Whether anthroposophy is "comprehensive in nature."
 - D. Whether anthroposophy can be recognized by formal and external signs such as formal services, ceremonial functions, the existence of clergy, structure and organization, efforts at propagation, observance of holidays and other similar manifestations associated with the traditional religions.
2. Whether the Waldorf inspired methodology employed by John Morse advances and promotes anthroposophy.
 - A. What are the current curricular and extra-curricular activities at John Morse.
 - B. Whether John Morse curricular and extra-curricular activities fit within accepted teaching strategies and local, state, or federal instructional guidelines.
 - C. What are the governance and accountability systems in effect for John Morse.
 - D. What are the operational and personnel systems in effect for John Morse.
3. Whether the Waldorf inspired methodology employed by school(s) within TRESA advances and promotes anthroposophy.
 - A. What are the current curricular and extra-curricular activities at TRESA

school(s) employing a Waldorf inspired methodology.

B. Whether curricular and extra-curricular activities at TRESA school(s) employing a Waldorf inspired methodology fit within accepted teaching strategies and local, state, or federal instructional guidelines.

C. What is the governance and accountability system in effect for TRESA school(s) employing a Waldorf inspired methodology.

D. What is the operational and personnel system in effect for TRESA school(s) employing a Waldorf inspired methodology.

4. Whether the Waldorf inspired methodology employed by John Morse results in excessive entanglement with anthroposophy.

A. Whether anthroposophy is benefitted by the use of Waldorf inspired methodology at John Morse.

B. Whether SCUSD, due to the operation of John Morse, pays from public funds any benefit or provides aid to anthroposophy, and if so, what is the nature of such benefit or aid.

C. Whether due to the operation of John Morse there is a current relationship between SCUSD and anthroposophy.

D. Whether SCUSD public officials supervise public employees on public property.

5. Whether the Waldorf inspired methodology employed by TRESA results in excessive entanglement with anthroposophy.

A. Whether anthroposophy is benefitted by the use of Waldorf inspired methodology by schools within TRESA.

B. Whether TRESA, due to the operation of school(s) employing a Waldorf inspired methodology, pays from public funds any benefit or provides aid to anthroposophy, and if so, what is the nature of such benefit or aid.

C. Whether due to the operation of school(s) employing a Waldorf inspired

methodology, there is a current relationship between TRESA and anthroposophy.

D. Whether TRESA public officials supervise public employees on public property.

V. EVIDENTIARY ISSUES/MOTIONS IN LIMINE

The court held a hearing on defendants' motions in limine on April 1, 2005. Plaintiff did not timely file any motions in limine. Counsel for both parties were present at the April 1, 2005 hearing at which the court made the following rulings from the bench.²

Defendants' Motion In Limine No. 4: The court reserved ruling for trial on whether to exclude evidence of anthroposophy not relevant to the determination of whether it is a religion or to the teachings or activities at either school. Court indicated that plaintiff will be required to make a proffer to which defendants may object.

Defendants' Motion In Limine No. 5: The court reserved ruling for trial on whether to exclude evidence regarding Rudolf Steiner not relevant to the methods at either school. Court indicated that plaintiff will be required to make a proffer to which defendants may object.

Defendants' Motion In Limine No. 6: The court reserved ruling for trial on whether to exclude testimony by witnesses lacking personal knowledge. At this stage, defendants' motion pertains solely to plaintiff's witnesses **Francesca Schomberg** and **Tina Means**.

Defendants' Motion In Limine No. 7: The court reserved ruling for trial on whether to exclude evidence of personal beliefs or practices of witnesses. The court found, and parties agreed, that any such evidence would be relevant, if at all, only in the second phase of trial on First Amendment issues and not to the issue of whether anthroposophy is a religion.

Defendants' Motion In Limine No. 11: The court granted, pursuant to Fed. R. Civ. P. 37(c), defendants' motion to exclude trial witnesses listed by plaintiff who were not disclosed to defendants during discovery. The following witnesses are excluded from testifying: Cynthia

² The court previously disposed of defendants' motions in limine 1 through 3 and 8 through 10 at a hearing held on April 11, 2001.

Hoven, Margit Ilgen, Ina Jachnig, Ernst Schuberth, Rena Osmer, Peggy Alessandri, Astrid Schmitt-Stegmann, Dennis Kloczek,, Rev. Franziska Hesse, Rev. Sanford Miller, and Robert London.³

Defendants' Motion In Limine No. 12: The court granted defendants' motion to exclude exhibits listed by plaintiff that were not disclosed to defendants pursuant to Fed. R. Civ. P. 37(c). Pursuant to that ruling, the following exhibits are excluded: Plaintiff's Exhibits Numbers 100-113, 116-118, 120-134, 136-159, 161-169, 171, 174-183, 186-187, 189-192, 194-199, and 201-217.

Defendants' Motion In Limine No. 13: The court granted defendants' motion to exclude expert witnesses listed by plaintiff that were not disclosed to defendants during discovery, noting however that all such witnesses identified by plaintiff already had been otherwise excluded.

Parties' witness and exhibit lists, attached to this order, have been amended to reflect this court's ruling on the motions in limine.

VI. RELIEF SOUGHT

Plaintiff has not requested damages. Plaintiff seeks a permanent injunction "enjoining defendants from operating taxpayer funded Waldorf schools, or other schools that similarly violate . . . [the federal and state constitution]." Additionally, Plaintiff seeks a declaration that Defendants' alleged operation of "Waldorf schools" violates both the state and federal constitutions. Finally, Plaintiff seeks attorneys fees and costs pursuant to 42 United States Code section 1988.

Defendants deny that they are operating "Waldorf schools." Defendants contend that Plaintiff's focus upon two schools (Twin Ridges Alternative Charter School and Oak Ridge Waldorf Methods Magnet School) no longer in operation improperly seeks retroactive injunctive and declaratory relief. *See Quern v. Jordan*, 440 U.S. 332 (1979) (no retrospective relief

³ Defendants originally sought exclusion of the following additional witnesses: Eugene Schwartz and Else Gottgens. Plaintiff withdrew its intent to call Schwartz as a witness, (see Pl.'s Opp'n to Defs.' Mot. In Limine 13 at 1 n.1.), and defendants withdrew their request to exclude Else Gottgens. (See Defs.' Joint Reply to Pl.'s Opp'n to Defs.' Motion in Limine 13 at 5 n. 7.)

allowed). Defendants also contest Plaintiff's demand for overbroad injunctive relief to entirely shut down all Waldorf-inspired public schools in current operation. If any particular aspect of the Defendants' current programs or activities is found by declaratory judgment by this court to rise to the level of a constitutional violation, that aspect can be remedied. The Defendants can promptly bring any school into compliance with the court's declaration.

VII. POINTS OF LAW/TRIAL BRIEFS

A. The parties cite the following points of law:

General

1. Whether anthroposophy is a religion for Establishment Clause purposes under current United States Supreme Court and Ninth Circuit standards.
2. Whether John Morse advances anthroposophy through Waldorf inspired methodology in violation of Establishment Clause.
3. Whether Yuba River advances anthroposophy through the Waldorf inspired methodology in violation of Establishment Clause.
4. Whether John Morse advances anthroposophy through the Waldorf inspired methodology in violation of Article XVI Section 5 of California Constitution.
5. Whether Yuba River advances anthroposophy through the Waldorf inspired methodology in violation of Article XVI Section 5 of California Constitution.

SCUSD and Endorsement:

6. Whether an objective observer in the position of an elementary school student would perceive a message of endorsement of anthroposophy in the use of Waldorf education methods at John Morse.
7. This observer is not an expert on esoteric religions.
8. Whether mere consistency with, or resemblance to, a religious practice has the primary effect of endorsing religion.
9. Whether the Waldorf method program at John Morse primarily advances the previously adjudicated secular purpose of educational innovation and

desegregation through a magnet school.

TRESA and Endorsement:

10. Whether an objective observer in the position of an elementary school student would perceive a message of endorsement of anthroposophy in the use of Waldorf education methods at any charter school sponsored by TRESA, including Yuba River.
11. This observer is not an expert on esoteric religions.
12. Whether mere consistency with, or resemblance to, a religious practice has the primary effect of endorsing religion.
13. Whether the Waldorf inspired charter schools sponsored by TRESA primarily advance the previously adjudicated secular purpose of educational innovation pursuant to the Charter Schools Act, California Education Code section 47600 et seq.

Entanglement Test Waiver:

SCUSD and "Excessive Entanglement" Test:

14. Whether there is payment of SCUSD public funds to a private religious institution. The court must determine the "character and purposes of the institutions that are benefitted, the nature of the aid that the State provides, and the resulting relationship between the government and religious authority."
15. Whether there is excessive entanglement between SCUSD and religion in general.
16. Whether supervision of public employees by public officials creates excessive entanglement between church and state.

TRESA and "Excessive Entanglement" Test:

17. Whether there is payment of TRESA public funds to a private religious institution. The court must determine the "character and purposes of the institutions that are benefitted, the nature of the aid that the State provides, and

the resulting relationship between the government and religious authority.”

18. Whether there is excessive entanglement between TRESA and religion in general.
19. Whether supervision of public employees by public officials creates excessive entanglement between church and state.

California Constitution:

20. Whether the court should abstain from ruling upon the alleged California Constitution violations since this case is one of first impression and the California legal standards are not entirely clear, and could raise conflicts between federal and state constitutional rights.
21. If the court does not abstain, then the court must determine whether Defendants violate Article I, section 4, Article XVI, section 5, or Article IX, section 8 of the California Constitution.
22. The test for the California Constitution, Article I, section 4’s “establishment clause” appears to be “endorsement.” Article I, section 4’s “no preference” clause appears to raise the issue whether government has granted a preferential benefit to a particular sect, religion, or religion in general, that is not granted to society at large.
23. Article XVI, section 5, has been held to prohibit official involvement, whatever its form, which has the direct, immediate, and substantial effect of promoting religious purposes. The test appears to be whether the government aid is direct, or indirect, and whether the nature of the aid is substantial or incidental. Article IX, section 8, precludes public funds appropriated for support of a sectarian or denominational school; any school not being under exclusive control of the officers of the public schools; and the instruction of any sectarian or denominational doctrine in a common school. An “incidental” benefit to a private, sectarian school is permissible if the “direct” benefit is to the student.

Relief:

24. Whether the relief requested by Plaintiff is necessary and proper in the circumstances as presented at trial.

B. The parties are free to brief any additional points of law necessary for resolution at trial.

C. Counsel are directed to Local Rule 16-285 regarding the contents of trial briefs. Trial briefs should be filed **fourteen (14) calendar days prior to trial.**

VIII. ABANDONED ISSUES

None.

IX. WITNESSES

Plaintiff anticipates calling the witnesses listed on **Attachment "A"**. As the court was not provided with a copy of plaintiff's witness list in electronic format, the court has redacted the witnesses excluded by court order by drawing a line through the name of such witnesses.

Defendant anticipates calling the witnesses listed on **Attachment "B"**.

Each party may call a witness designated by the other.

A. No other witnesses will be permitted to testify unless:

(1) The party offering the witness demonstrates that the witness is for the purpose of rebutting evidence which could not be reasonably anticipated at the Pretrial Conference, or

(2) The witness was discovered after the Pretrial Conference and the proffering party makes the showing required in "B" below.

B. Upon the post-Pretrial discovery of witnesses, the attorney shall promptly inform the court and opposing parties of the existence of the unlisted witnesses so that the court may consider at trial whether the witnesses shall be permitted to testify. The evidence will not be permitted unless:

(1) The witnesses could not reasonably have been discovered prior to Pretrial;

(2) The court and opposing counsel were promptly notified upon discovery of the witnesses;

(3) If time permitted, counsel proffered the witnesses for deposition;

(4) If time did not permit, a reasonable summary of the witnesses' testimony was provided opposing counsel.

C. Plaintiff will not be permitted to call defendants' designated expert witnesses, Robert L. Anderson, and Dr. Douglas Sloan, or defendants' previously-designated expert witnesses, Dr. Chrystal Olsen and Betty Staley.

D. In light of the court's determination that there are disputed facts with respect to the Twin Ridges ESD, defendant Twin Ridges is granted leave to amend its witness list to add Deborah Lenny, a previously disclosed witness not included on Twin Ridges' witness list.

E. The parties shall provide an original and three (3) copies of their proposed witness list.

X. EXHIBITS, SCHEDULES AND SUMMARIES

At present, plaintiff contemplates by way of exhibits those listed on **Attachment "C"**. As the court was not provided with a copy of plaintiff's exhibit list in electronic format, the court has redacted the exhibits excluded by court order by drawing a line through the exhibit number and title.

At present, defendant contemplates by way of exhibits those listed on **Attachment "D"**. Plaintiff's exhibits shall be listed numerically. Defendant's exhibits shall be listed alphabetically. The parties shall use the standard exhibit stickers provided by the court: pink for plaintiff and blue for defendant. All multi page exhibits shall be stapled or otherwise fastened together and each page within the exhibit shall be numbered. The list of exhibits shall not include excerpts of depositions, which may be used to impeach witnesses.

Each party may use an exhibit designated by the other. **In the event that plaintiff(s) and defendant(s) offer the same exhibit during trial, that exhibit shall be referred to by the designation the exhibit is first identified. The court cautions the parties to pay attention to this detail so that all concerned, including the jury, will not be confused by one exhibit being identified with both a number and a letter.**

A. No other exhibits will be permitted to be introduced unless:

(1) The party proffering the exhibit demonstrates that the exhibit is for the purpose of rebutting evidence which could not be reasonably anticipated at the Pretrial Conference, or

(2) The exhibit was discovered after the Pretrial Conference and the proffering party makes the showing required in paragraph "B," below.

B. Upon the post-Pretrial discovery of exhibits, the attorneys shall promptly inform the court and opposing counsel of the existence of such exhibits so that the court may consider at trial their admissibility. The exhibits will not be received unless the proffering party demonstrates:

(1) The exhibits could not reasonably have been discovered prior to Pretrial;

(2) The court and counsel were promptly informed of their existence;

(3) Counsel forwarded a copy of the exhibit(s) (if physically possible) to opposing counsel. If the exhibit(s) may not be copied, the proffering counsel must show that he has made the exhibit(s) reasonably available for inspection by opposing counsel.

C. As to each exhibit, each party is ordered to exchange copies of the exhibit **not later than twenty-one (21) calendar days prior to trial**. Each party is then granted **ten (10) calendar days to object** to the exhibit(s). Objections will be heard at 11:00 a.m. on the date of trial. The hearing on the objections will be scheduled at the same time that in limine motions are heard. In making the objection, the party is to set forth the grounds for the objection. Each party is directed to present to Maureen Price, Deputy Courtroom Clerk, the original exhibits and two (2) copies for the court, **no later than 3:00 p.m. on the Friday before trial**, or at such earlier time as may be agreed upon. As to each exhibit which is not objected to, it shall be marked and may be received into evidence on motion and will require no further foundation. Each exhibit which is objected to will be marked for identification only.

D. The Court's copy shall be presented in a 3-ring binder(s) with a side tab identifying each exhibit by number or letter. Each binder shall be no larger than two and one half (2 ½) inches in width and have an identification label on the front and side panel. If this requirement is not practicable, please contact the courtroom deputy seven (7) days prior to trial to

make other arrangements.

E. The parties shall also provide a 3-ring binder(s), identical to the Court's copy, for use on the witness stand.

F. The parties shall provide an original and three (3) copies of an exhibit list (corresponding to the marked exhibits).

XI. DISCOVERY DOCUMENTS

A. Filing Depositions. It is the duty of counsel to ensure that any deposition which is to be used at trial has been filed with the Clerk of the Court. Counsel are cautioned that a failure to discharge this duty may result in the court precluding use of the deposition or imposition of such other sanctions as the court deems appropriate.

B. Use of Depositions. The parties are ordered to file with the court and exchange between themselves **not later than seven (7) calendar days before the trial** a statement designating portions of depositions intended to be offered or read into evidence (except for portions to be used only for impeachment or rebuttal).

C. Interrogatories. The parties are ordered to file with the court and exchange between themselves **not later than seven (7) calendar days before trial** the portions of Answers to Interrogatories which the respective parties intend to offer or read into evidence at the trial (except portions to be used only for impeachment or rebuttal).

XII. FURTHER DISCOVERY OR MOTIONS

Pursuant to the court's Status Conference Order, all discovery and law and motion was to have been conducted so as to be completed as of the date of the Pretrial Conference. That order is confirmed. The parties are free to do anything they desire pursuant to informal agreement. However, any such agreement will not be enforceable in this court.

XIII. AUDIO/VISUAL EQUIPMENT

The parties are required to make a joint request, in writing to the Courtroom Deputy, Maureen Price, **twenty-one (21) calendar days prior to the commencement of trial** if they wish to reserve and arrange for orientation with all parties on the court's mobile audio/visual equipment

for presentation of evidence. There will be one date and time for such orientation. Because each courtroom is not individually equipped with the mobile audio/visual equipment, the equipment may already be reserved for another courtroom. In such, case, the parties will need to consult with Ms. Price if they wish to furnish their own equipment and operator with the permanent equipment in the courtroom.

XIV. STIPULATIONS

None.

XV. AMENDMENTS/DISMISSALS

None.

XVI. SEPARATE TRIAL OF ISSUES

Trial shall be bifurcated. Trial solely on the issue of whether anthroposophy is a religion shall precede trial of all remaining issues. Trial of remaining issues, if necessary, will immediately follow trial solely on the issue of whether anthroposophy is a religion.

XVII. IMPARTIAL EXPERTS/LIMITATION OF EXPERTS

Plaintiff disclosed no expert witnesses before the April 16, 2004, deadline. See section IX of this order.

Defendants disclosed Dr. Douglas Sloan and Robert Anderson. No other non-percipient witnesses will be called at trial.

XVIII. DAUBERT/KUMHO PROCEDURE

Defendants' filed a *Daubert* motion on February 1, 2001, to exclude the Plaintiff's proposed expert witnesses: Dan Dugan, John Morehead, Dr. James M. Morton, Dr. Eugenie Scott, Debra Snell and Kathleen Stuphen.

The court ordered that Dan Dugan and John Morehead be excluded as expert witnesses. The court limited the testimony of Dr. James M. Morton to his expertise as to religion regarding his definition as encompassed by the Christian doctrines, Protestant doctrines and individual Southern Baptist doctrines.

Plaintiff conceded to the court that Debra Snell and Kathleen Stuphen will testify as

percipient witnesses instead of as expert witnesses. Plaintiff conceded that Dr. Eugenie Scott will not be called to testify as an expert witness.

XIX. ATTORNEYS' FEES

The matter of the award of attorneys' fees to prevailing parties pursuant to statute will be handled by motion in accordance with Local Rule 54-293.

XX. ESTIMATE OF TRIAL TIME/TRIAL DATE

A bench trial is scheduled for **September 12, 2005**. The estimated length of trial is sixteen days. Counsel are to call Maureen Price, Courtroom Deputy, at (916) 930-4163, **twenty-one (21) calendar days prior to trial** to ascertain the status of the trial date.

XXI. OBJECTIONS TO PRETRIAL ORDER

Each party is granted ten (10) *court* days from the date of this Order to object to or augment this Order.

IT IS SO ORDERED.

DATED: April 19, 2005



FRANK C. DAMRELL II.
United States District Judge

ATTACHMENT "A"**Plaintiff's Amended Witness List**

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6	4.	Dr. Cheryl Olson	(Defendants' Expert) To describe the purpose of
7			bringing Waldorf education into the public sector.
8	5.	Robert L. Anderson	(Defendants' Expert) To describe his experience with
9			the work of Rudolf Steiner and with Waldorf
10			education.
11	6.	Betty Staley	(Defendants' Expert) To describe her understanding of
12			the relationship between Anthroposophy, religion, and
13			Waldorf Education.
14	7.	Dr. Douglas Sloan	(Defendant's expert) To describe the relationship
15			between Anthroposophy and religion.
16	8.	Terry Pequette	To provide percipient testimony regarding the
17			operation of the publicly funded Waldorf school in the
18			Twin Ridges Elementary School District.
19	9.	Francesca Schornberg	To provide percipient testimony regarding the
20			operation of the publicly funded Waldorf school in the
21			Sacramento City Unified School District
22	10.	Tina Means	To provide percipient testimony regarding the
23			operation of the publicly funded Waldorf school in the
24			Sacramento City Unified School District
25	11.	Eugene Schwartz	To provide foundational testimony regarding the
26			relationship between Waldorf Education and
27			Anthroposophy
28	12.	Lee Pope	To provide percipient testimony regarding the

1			operation of the publicly funded Waldorf school in the
2			Twin Ridges Elementary School District.
3	10.	Caitlan Cawley	To provide percipient testimony regarding the
4			operation of the publicly funded Waldorf school in the
5			Twin Ridges Elementary School District.
6	11.	David Anderson	To provide percipient testimony regarding the
7			operation of the publicly funded Waldorf school in the
8			Twin Ridges Elementary School District.
9	12.	Carol Fegte	To provide percipient testimony regarding the
10			operation of the publicly funded Waldorf school in the
11			Twin Ridges Elementary School District.
12	13.	Karen Geisler	To provide percipient testimony regarding the
13			operation of the publicly funded Waldorf school in the
14			Twin Ridges Elementary School District.
15	14.	George Hoffecker	To provide percipient testimony regarding the
16			operation of the publicly funded Waldorf school in the
17			Twin Ridges Elementary School District and oversight
18			thereof in his role as superintendent.
19	15.	Carol Nimick	To provide percipient testimony regarding the
20			operation of the publicly funded Waldorf school in the
21			Twin Ridges Elementary School District.
22	16.	Sallie Romer	To provide percipient testimony regarding the
23			operation of the publicly funded Waldorf school in the
24			Twin Ridges Elementary School District.
25	17.	David Taylor	To provide percipient testimony regarding the
26			operation and administration of of the publicly funded
27			Waldorf school in the Twin Ridges Elementary School
28			District.

1	18.	Calcb Buckley	To provide percipient testimony regarding the
2			operation and administration of the publicly funded
3			Waldorf school in the Twin Ridges Elementary School
4			District.
5	19.	Irma Jue	To provide percipient testimony regarding the
6			operation and administration of the publicly funded
7			Waldorf school in the Sacramento City Unified School
8			District.
9	20.	Lauren Rice	To provide percipient testimony regarding the
10			operation of the publicly funded Waldorf school in the
11			Sacramento City Unified School District.
12	21.	Patricia Ryan	To provide percipient testimony regarding the
13			operation of the publicly funded Waldorf school in the
14			Sacramento City Unified School District.
15	22.	Cynthia Maves	To provide percipient testimony regarding describe her
16			understanding of the relationship between
17			Anthroposophy, religion, and Waldorf Education.
18	23.	Margit Egan	To provide percipient testimony regarding describe her
19			understanding of the relationship between
20			Anthroposophy, religion, and Waldorf Education.
21	24.	Joe Ischnig	To provide percipient testimony regarding describe her
22			understanding of the relationship between
23			Anthroposophy, religion, and Waldorf Education.
24	25.	Ernest Schuchert	To provide percipient testimony regarding describe his
25			understanding of the relationship between
26			Anthroposophy, religion, and Waldorf Education.
27	26.	Rosa Gomez	To provide percipient testimony regarding describe her
28			understanding of the relationship between

1		Anthroposophy, religion, and Waldorf Education.
2	27. Roger Alexandri	To provide percipient testimony regarding describe her
3		understanding of the relationship between
4		Anthroposophy, religion, and Waldorf Education.
5	28. Astrid Schmidt Stegmann	To provide percipient testimony regarding describe her
6		understanding of the relationship between
7		Anthroposophy, religion, and Waldorf Education.
8	29. Dennis Klenck	To provide percipient testimony regarding describe his
9		understanding of the relationship between
10		Anthroposophy, religion, and Waldorf Education.
11	30. Ann Mathews	To provide percipient testimony about the Waldorf
12		seminars and instruction attended by teachers at the
13		subject schools.
14	31. Else Gottgens	To provide percipient testimony about the Waldorf
15		seminars and instruction attended by teachers at the
16		subject schools.
17	32. Rev. Franziska Hasse	To provide foundational testimony about
18		anthroposophy teachings and practices and the
19		relationship between Anthroposophy and religion.
20	33. Rev. Sanford Miller	To provide foundational testimony about
21		anthroposophy teachings and practices and the
22		relationship between Anthroposophy and religion.
23	34. Robert London	To provide foundational testimony about
24		anthroposophy teachings and practices and the
25		relationship between Anthroposophy and religion.
26		
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28		

ATTACHMENT "B"

Defendants' Amended Witness List

Sacramento City Unified School District Witnesses:

1. Lisa Broadkey: parent. Defendants anticipate Ms. Broadkey will testify regarding the program at John Morse.
2. Chris Chavez: teacher. Defendants anticipate Ms. Chavez will testify regarding the program at John Morse.
3. Cheryl Eining: principal. Defendants anticipate Ms. Eining will testify regarding the Waldorf methods program at John Morse.
4. David Kuchera: parent. Defendants anticipate Mr. Kuchera will testify regarding the program at John Morse.
5. Jane Marks: parent. Defendants anticipate Ms. Marks will testify regarding the program at John Morse.
6. Susan Miller: administrator. Defendants anticipate Ms. Miller will testify as to the oversight and operation of John Morse.
7. Lauren Rice: teacher. Defendants anticipate Ms. Rice will testify regarding the program at John Morse.
8. Barbara Warren: teacher. Defendants anticipate Ms. Warren will testify regarding the program at John Morse.
9. Chris Whetstone: parent and teacher. Defendants anticipate Mr. Whetstone will testify regarding the program at John Morse.

Twin Ridges Elementary School District Witnesses:

10. Caleb Buckley: administrator. Defendants anticipate Mr. Buckley will testify regarding the Waldorf methods program at Yuba River.
11. Marshall Goldberg: parent. Defendants anticipate Mr. Goldberg will testify regarding the program at Yuba River.
12. Frank Lawrence: parent. Defendants anticipate Mr. Lawrence will testify regarding the

program at Yuba River.

13. John Lee: parent. Defendants anticipate Mr. Lee will testify regarding the program at Yuba River.

14. Deborah Lenny: principal. Defendants anticipate Ms. Lenny will testify regarding the program at Golden Valley Charter School.

15. Jill Messier: teacher. Defendants anticipate Ms. Messier will testify regarding the upper grades program at Yuba River.

16. Carol Nimick: teacher. Defendants anticipate Ms. Nimick will testify regarding the primary grades program at Yuba River.

17. David Taylor: superintendent. Defendants anticipate Mr. Taylor will testify regarding the oversight and operation of Waldorf methods schools in Twin Ridges.

Defendants' Expert Witnesses:

15. Robert Anderson: California Dept. of Education. Defendants anticipate Mr. Anderson will testify as a percipient and an expert witness regarding the California State Curriculum Frameworks and the curriculum of both schools at issue.

16. Dr. Douglas Sloan: Professor Emeritus, Teachers College, Columbia University. Defendants anticipate Dr. Sloan will testify as a percipient and expert witness regarding religion, philosophy, education, and anthroposophy.

ATTACHMENT "C"**Plaintiff's Amended Exhibit List**

1.	Bob Anderson's Report re Anthroposophy and Waldorf Education, dated January 23, 1999
2.	Resume of Crystal Tilton Olson, Ed.D.
3.	"Learning that Grows with the Learner: An Introduction to Waldorf Education"
4.	Foundation Year Book List 1993-1994
5.	Teacher Education Book List 1993-1994
6.	Notes of Crystal Tilton Olson, Ed.D.
7.	The John Morse Waldorf Methods School Draft Curriculum
8.	Yuha River Charter School Mission Statement and Curriculum
9.	"The Waldorf Approach Applied in the Public School Classroom, Summer Institute for Teachers, July 19-30, 1999, Rudolf Steiner College"
10.	"The Waldorf Approach to Education," Betty Staley
11.	"Comparison of Waldorf training (Diploma) at Steiner College and Oak Ridge Waldorf Certificate (adapted for the Public School Teacher)"
12.	"Waldorf Education Adapted for the Public School Training Program, Oak Ridge Waldorf Methods Magnet Elementary School"
13.	"Waldorf Education in America: A Promise and Its Problems," Ray McDermott
14.	"Racism and Waldorf Education," Ray McDermott
15.	"Anthroposophy and Waldorf Education"
16.	Letter to "Twin Ridges Alternative School Colleagues" from Terry Pequette, October 13, 1995
17.	"Twin Ridges Alternative Charter School, Parent Handbook, '95-'96"
18.	"Waldorf Parenting Handbook," Lois Cusick
19.	Twin Ridges, "Newsletter," September 21, 1995
20.	"Martinmas"

1	21.	Festivals in the Waldorf School with Activities, Songs, Verses for Children
2	22.	"First Grade Readiness and Related Issues," Joan Almon
3	23.	Anthroposophical Press, Complete Catalog
4	24.	"Man and Animal," Roy Wilkinson
5	25.	"What is Taught in Waldorf Schools?" William J. Bennetta
6	26.	"Charter for Indoctrination," Rob Boston
7	27.	"The Interpretation of Fairy Tales," Wilkinson
8	28.	"The Education of the Child and Early Lectures on Education," Rudolf Steiner
9	29.	"The Child's Changing Consciousness As the Basis of Pedagogical Practice," Rudolf Steiner
10	30.	"Rudolf Steiner, Esoteric Christianity, and the New Age Movement," Roger E. Olson
11	31.	"Waldorf Education and New Age Religious Consciousness"
12	32.	"Lecture II"
13	33.	Class notes of Kathleen Sutphen
14	34.	Letter from Robert Mc Dermott of Rudolf Steiner College to Friends, November 25, 1996
15	35.	Notes re RSC Spring, 1997, Training Sessions
16	36.	"The Esoteric Basis of The Threofold Social Order and the Mission of Waldorf Education," Gary Lamb
17	37.	"Waldorf Education: Schooling the Head, Hands and Heart," Ronald E. Kotzsch, Ph.D.
18	38.	"Waldorf Education...An Introduction" by Henry Barnes
19	39.	Rudolf Steiner College Program Offerings
20	40.	Association of Waldorf Schools of North America "Position Statement: Affiliation with the Association of Waldor Schools of North America and Use of the trademark name "Waldorf" or "Rudolf Steiner" Education
21	41.	Student Work from Oak Ridge Elementary
22	42.	Student Work from Twin Ridges Elementary
23	43.	Oak Ridge School Student Work Reflecting Anthroposophy
24	44.	Twin Ridges Alternative Charter School Plan
25	45.	Twin Ridges Policy and Procedures
26	46.	Twin Ridges "Faculty Vision"
27		
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1	47.	"Dear Kindergarten Parents," August 30, 1995
2	48.	"Bibliography," handout to Twin Ridges' parents by 6 th Grade teacher, September, 1995
3	49.	"Recommended Reading," handout to Twin Ridges parents, Fall, 1995
4	50.	"Some Guidelines for First Grad Readiness," Nancy Foster
5	51.	"Confessions of A Waldorf Parent," Margaret Gorman
6	52.	"Speaking with the Young Child (Through the Kindergarten Years)," Stephen Spitalny
7	53.	"Interview Questions for Charter School Teachers"
8	54.	To: Follow Lavender Kindergarten Parents, From: Lisa Schenck
9	55.	Notes re Carol Nimmick
10	56.	Lee Pope - Biography
11	57.	"Dear Parent Council Members and Fifth Grade Families," 1/17/96
12	58.	Newsletter, October 19, 1995
13	59.	Gateways Educational Services handout
14	60.	Gateways Educational Services Report on Twin Ridges student Doc 1
15	61.	Gateways Educational Services Report on Twin Ridges student Doc 2
16	62.	What is Michaelmas?
17	63.	Newsletter, September 21, 1995
18	64.	Letter to Parents from Faculty, September 21, 1995
19	65.	Newsletter, November 3, 1995
20	66.	Newsletter, November 9, 1995
21	67.	Newsletter, November 16, 1995
22	68.	Newsletter, November 30, 1995
23	69.	Newsletter, March 7, 1996
24	70.	Student Work, Ryan McKay's Reader
25	71.	"Anthroposophical Society, Fostering the Life of the Soul"
26	72.	"Anthroposophy and the Waldorf Schools," p. 117
27	73.	Anthroposophical Education, p. 283
28		

1	74.	What is Eurythmy, Rene M. Quacido
2	75.	Lecture Notes from Rudolf Steiner College
3	76.	SFWS, Bloom 1991, p. 2
4	77.	"A Christian Mystery"
5	78.	"Morning Verse for Lower Grades"
6	79.	"Nature-Based School"
7	80.	"Christmas Season in a Public School," James W. Petersen
8	81.	"Waldorf Education Develops the Fundamental Capacities of the Child Through the Balance of Its Subjects"
9	82.	"The Plant World"
10	83.	"The Wave Theory of Light"
11	84.	Steiner, ONS, p. 112
12	85.	The Temple Legend, p. 220
13	86.	Lecture Three, p. 41
14	87.	Oak Ridge Elementary Pictures
15	88.	Pictures from other Waldorf Schools
16	89.	"The Waldorf Teacher's Survival Guide," Eugene Schwartz
17	90.	"An Overview of the Waldorf Kindergarten: Articles from the Waldorf Kindergarten Newsletter 1981 to 1992
18		Volume One"
19	91.	"Rudolf Steiner's Curriculum for Waldorf Schools: An Attempt to summarize his indications: A collection of
20		quotations for the benefit of different Waldorf Schools."
21	92.	"Lighting Fires (Inner Work for Teachers)," J. Smit
22	93.	"The Esoteric Background of Waldorf Education, The Cosmic Christ Impulse," Rene M. Quacido
23	94.	"Dr. Rudolf Steiner and the Science of Spiritual Realities" video
24	95.	"Rudolf Steiner: An Introduction to his Life and Works" video
25	96.	"Waldorf Education: A Vision of Wholeness" video
26	97.	"Reviving the Art of Education" video
27	98.	"Taking a Risk in Education: Waldorf-Inspired Public Schools" video
28		

1	99.	Advent Spiral Video
2	100.	"Taking back our schools: a manual for parents"
3	101.	"Celebrating with children"
4	102.	"Getting bedtime tales your children will dream on"
5	103.	"Festivals Family and Food"
6	104.	"Making make believe"
7	105.	"The moral intelligence of children"
8	106.	"How to raise a moral child"
9	107.	"Festivals together, a guide to multicultural celebration"
10	108.	"All Year Round (Festival Ideas)" A. Druit
11	109.	"And Then Take Hands," M. Von Heide
12	110.	"Biography of Waldorf Education," W. Appell
13	111.	"Festivals Together," S. Elzobin
14	112.	"Festivals With Children," B. Ross
15	113.	"Festivals, Family and Food," D. Casey
16	114.	"Introduction to Waldorf Education," H. Barnes
17	115.	"Lighting Fires," J. Smit
18	116.	"Multi-culturalism in Waldorf Education," WIMCC
19	117.	"Parent Participation in Waldorf Schools," M. Leist
20	118.	"Recovery of Man in Childhood," A. C. Harwood
21	119.	"Steiner Education in Theory and Practice," G. Willis
22	120.	"Waldorf Education: Worldwide," P. H. Mottin
23	121.	"Waldorf Kindergarten Newsletters, Vol. I-II Collection"
24	122.	"You Wanted to Know What a Waldorf School is," A. Howard
25	123.	Volume 26, No. 1 "Money, Child and Man"
26	124.	Volume 26, No. 2, "Europe, Child and Man"
27	125.	Volume 27, No. 1 "Festivals, Child and Man"
28		

1	126	Volume 27, No. 2, "Craft and Design, Child and Man"
2	127	Volume 28, No. 1, "Child and Man"
3	128	Volume 28, No. 2, "Child and Man"
4	129	Volume 29, No. 2, "Child and Man"
5	130	Volume 30, No. 1, "Steiner Education"
6	131	"Drawings and Sayings"
7	132	"Learning and Behavior"
8	133	"Practical Advice for Teachers"
9	134	"Your Child's Growing Mind"
10	135	"Rudolf Steiner's Curriculum for Waldorf schools"
11	136	Waldorf Education: Rudolf Steiner's Ideas in Practice
12	137	"The Names Came," M. V. Lomax & I. Mosekops
13	138	Greek Myths, D'Aulaires
14	139	The Ramayana
15	140	Ray Williamson on Hebrew legends
16	141	The Bible, New Revised Standard Edition
17	142	The Bible (selected excerpts)
18	143	The Bhagavad Gita
19	144	The Kalevala
20	145	Dorothy Harris on ancient history
21	146	"Sleep" Audrey McAllen
22	147	"Across the Centuries," Houghton Mifflin
23	148	"The Children of Odin," Patricia Collman
24	149	"Man and Mammal"
25	150	Seasonal Story and Song Books, Wynstone
26	151	Edman on Waldorf education
27	152	http://www.stud.k12.nj.us/
28		

1	153. http://www.wendland12.com/
2	154. http://www.courd.edu/schools/steiner/
3	155. http://schools.courd.edu/steiner/
4	156. http://www.steinercollege.edu/
5	157. http://www.anthroposophy.org/
6	158. http://www.thechristiancommunity.org/
7	159. "Between Firm and Freedom: A Practical Guide to the Teenage Years," Betty Staley
8	160. "Hear the Voice of the Griot: A Guide to the History, Geography and Culture of Africa," Betty Staley
9	161. "Tapestries: Weaving Life's Journey," Betty Staley
10	162. "Soul Weaving," Betty Staley
11	163. 2004, 2005 Year Booklets
12	164. Rudolph Steiner College Bookstore, Complete Catalog
13	165. The Christian Community Church, pictures
14	166. The Seminary of the Christian Community Church, pictures
15	167. Selected writings, The Christian Community Church
16	168. Selected writings, Friedrich Hesse
17	169. Selected writings, Sanford Miller
18	170. "Waldorf Education and Anthroposophy," Rudolph Steiner
19	171. "Kingdom of Childhood," Rudolph Steiner
20	172. "Outline of Esoteric Science," Rudolph Steiner
21	173. "The Spiritual Hierarchies," Rudolph Steiner
22	174. "Spirit and Art," Van James
23	175. "Passion of the Western Mind," Richard Tarnas
24	176. "The Other America," Carl Stegmann
25	177. "Paradisiak," Eschenbach
26	178. Selected Essays, Lectures, Poems (R. W. Emerson)
27	179. "The American Scholar" R. W. Emerson
28	

1	180.	"Nature," R. W. Emerson
2	181.	"Moby Dick," Herman Melville
3	182.	"Civil Disobedience," W. D. Thoreau
4	183.	"Intuitive Thinking as a Spiritual Path" (Philosophy of Spiritual Activity), Rudolph Steiner
5	184.	"How to Know Higher Worlds," Rudolph Steiner
6	185.	"Theosophy," Rudolph Steiner
7	186.	"Calendars of the Soul," Rudolph Steiner
8	187.	"Manifestations of Karma" (Reincarnation and Karma), Rudolph Steiner
9	188.	"Karmic Relationships," Rudolph Steiner
10	189.	"Questions and Answers on Reincarnation and Karma," Rene Guenon
11	190.	"Towards Social Renewal" (Threefold Social Order), Rudolph Steiner
12	191.	"Facing the Human Spirit," Michael Spence
13	192.	"Rudolf Steiner, Herald of a Modern Consciousness," Stuart Easton
14	193.	"Anthroposophical Leading Thoughts," Rudolph Steiner
15	194.	"The Essential Steiner," Robert McDermott
16	195.	"Study of Man," Rudolph Steiner
17	196.	"Practical Advice to Teachers," Rudolph Steiner
18	197.	"Discussions with Teachers," Rudolph Steiner
19	198.	"Balance in Teaching," Rudolph Steiner
20	199.	"Waldorf Education for Adolescents," Rudolph Steiner
21	200.	"The Education of the Child," Rudolph Steiner
22	201.	"Education as a Social Problem," Rudolph Steiner
23	202.	"Three Lectures for Lecturers for Teachers on the Curriculum," Rudolph Steiner
24	203.	"Rudolf Steiner's Curriculum for Waldorf Schools," E. A. Karl Stockmeyer
25	204.	"The Wisdom of Fairy Tales," Rudolf Meyers
26	205.	"Cumulative Education," Rudolph Steiner
27	206.	"Christianity as Mystical Fact," Rudolph Steiner
28		

1	307	"The Spiritual Guidance of the Individual and Humanity," Rudolph Steiner
2	308	"The Younger Generation," Rudolph Steiner
3	309	"Kingdom of Childhood," Rudolph Steiner
4	310	"The Child's Changing Consciousness & Waldorf Education," Rudolph Steiner
5	311	"Understanding Young Children," Rudolph Steiner
6	312	"The Cycle of the Year as a Breathing Process," Rudolph Steiner
7	313	"The Festivals and their Meaning," Rudolph Steiner
8	314	"Anthroposophy in Everyday Life," Rudolph Steiner
9	315	"The Four Seasons and the Archangels," Rudolph Steiner
10	316	"The Inner Spiritual Year," Adrian Anderson
11	317	"Festival Images for Today," Carlo Dietmar
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ATTACHMENT "D"

Defendants' Exhibit List

Defendants' Joint Exhibits:

- A. Plaintiff's September 9, 1998 Response to Interrogatories propounded by SCUSD.
- B. Plaintiff's September 9, 1998 Response to Interrogatories propounded by Twin Ridges.
- C. Plaintiff's March 4, 1999 Response to Interrogatories propounded by SCUSD.
- D. PLANS' Answer to Special Interrogatories propounded by Defendants, Set No. Three, dated January 15, 2004;
- E. PLANS' Response to Request for Admissions propounded by Defendants, Set No. One, dated January 15, 2004;
- F. PLANS' Supplemental Answer to Special Interrogatories propounded by Defendants, Set No. Three, dated February 22, 2004;
- G. PLANS' Second Supplemental Answer to Special Interrogatories propounded by Defendants, Set No. Three, dated March 31, 2004;
- H. PLANS' Response to Request for Production of Documents propounded by Defendants, Set No. Two, dated March 31, 2004;
- I. PLANS' Supplemental Response to Request for Admissions propounded by Defendants, Set No. One, dated March 31, 2004.
- J. State Curriculum Frameworks for Mathematics.
- K. State Curriculum Frameworks for Science.
- L. State Curriculum Frameworks for History/Social Science.
- M. State Curriculum Frameworks for English-Language Arts.
- N. California Department of Education handbook entitled "Moral, Civic, and Ethical Education."
- O. California Department of Education handbook entitled "Social Studies Review, Character Education."
- P. California Department of Education handbook entitled "Elementary Makes the Grade."
- Q. California Department of Education Character Education annotated bibliography.

R. California Department of Education Character Education documents.

S. The President's Guidelines to Religion in Schools.

1 T. PLANS/Dugan e-mails and web-site postings.

2 **Sacramento City Unified School District Exhibits:**

3 U. Curriculum for John Morse Waldorf Methods Magnet School.

4 V. John Morse Teacher Lesson Plans.

5 W. John Morse Block Rotation Schedules.

6 X. Collective Bargaining Agreement between Sacramento City Unified School District and
7 Sacramento City Teachers Association.

8 Y. Photographs of John Morse.

9 Z. July 1997 letter from Dan Dugan to Tom Griffin.

10 AA. July 1997 letter from Dan Dugan to Matt McDonald.

11 **Twin Ridges Elementary School District Exhibits:**

12 BB. Curriculum for the Yuba River Charter School.

13 CC. Current Charter for Yuba River Charter School.

14 DD. Yuba River Charter School Teacher Lesson Plans.

15 EE. Yuba River Charter School Block Rotation Schedules.

16 FF. Yuba River Charter School Weekly Schedule.

17 GG. Yuba River Charter School Accountability Reports.

18 HH. Twin Ridges Elementary School District Accountability Reports.

19 II. Twin Ridges Elementary School District Accountability Rubrics.

20 JJ. Yuba River Charter School teacher evaluation forms.

21 KK. Yuba River Charter School Newsletters.

22 LL. Yuba River Charter School parents handout, Educational Overview.

23 MM. Nevada County and Yuba River Charter School STAR profile.

24 NN. Twin Ridges Elementary School District Newsletters.

25 OO. Photographs of Yuba River Charter School.

26